

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 25th day of January 2010 A.D. at 7:00 p.m.

President Bollin opened the meeting at 6:00 p.m.

**CLOSED EXECUTIVE SESSION:**

**1. Town Solicitor - Litigation – 42-46-5(a) (2)**

**2. Town Administrator – 42-46-5(a)(2) - Collective Bargaining-Teamsters, IAFF& IBPO**

**3. Town Administrator – 42-46-5(a)(6) - Prospective Business or Industry**

A motion was made by Councilor Arruda, seconded by Councilor Roderick to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. The motion passed unanimously.

A motion was made by Councilor Arruda, seconded by Councilor Roderick to remain in Executive Session pursuant to 42-46-5(a)(2)-Collective Bargaining-Teamsters, IAFF & IBPO. The motion passed unanimously.

A motion was made by Councilor Arruda, seconded by Councilor Roderick to further remain in Executive Session pursuant to 42-46-5(a)(6)-Prospective Business or Industry. The motion passed unanimously.

The Council entered into Executive Session at approximately 6:01 p.m.

The Council returned to Open Session at approximately 7:05 p.m.

**OPEN SESSION:**

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

<b>Roll Call:</b>	<b>Donald Bollin-President</b>	<b>Jay Lambert</b>
	<b>JoAnne Arruda-Vice President</b>	<b>Cecil E. Leonard</b>
	<b>Hannibal Costa</b>	<b>Edward Roderick</b>
	<b>Louise Durfee</b>	

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

**Approval of Consent Agenda:**

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Councilor Roderick requested removal of item A-5, budget and revenue reports from the Treasurer- previously distributed.

Councilor Durfee requested removal of item A-8, request to hold a Memorial Day Parade.

Councilor Leonard made a motion, seconded by Councilor Arruda to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

**CONSENT AGENDA:**

**A-1-Approval of Minutes of Previous Meetings:**

- a. Approval of Minutes from January 11, 2010 Regular Council Meeting

**A-2-Receipt of Minutes from Various Board and Commissions:**

- a. Harbor Commission (2)
- b. Wastewater Management Commission
- c. Economic Development Commission
- d. Open space Commission
- e. Pocasset Cemetery Commission
- f. School Committee (3)

**A-3-Correspondence:**

- a. Received From Town of Middletown – Council Resolution Opposing Location of Liquefied Natural Gas Facility in Mount Hope Bay
- b. Received From Town of Bristol – Council Resolution Opposing Liquefied Natural Gas Facility in Mount Hope Bay
- c. Received From Compact Freedom - Proclamation Against Domestic Violence
- d. Received Friends of Tiverton Libraries – Winter 2010 Newsletter

**A-4-Receipt of Planning Board Recommendation Regarding Zoning Ordinance Text and Map Amendment Request Submitted by the Tiverton Yacht Club - Continued to April for Ethics**

**Advisory Opinions**

**A-6-Approval of Tax Assessor Abatements**

**A-7-Approval of Resolution Opposing LNG**

**BUSINESS BROUGHT BEFORE THE COUNCIL:**

**Received November and December Monthly Budget and Revenue Reports and Investment Report From Town Treasurer, DiMattia – Previously Distributed**

Councilor Roderick questioned the Treasurer about the previously distributed budget and revenue reports. The investment report given by Treasurer DiMattia was lengthy, gave a breakdown of interest received but not the percentage. Councilor Roderick passed out a matrix he developed in relation to the reports he had asked for over the last several months. The Treasurer, in this report, attempted to give an overall understanding of investments as of June 30, 2009. On the detail schedule each bond is identified. Councilor Roderick's concern was the small amount of interest some accounts were earning such as .36%. The Council needs to see the breakdown and is requesting a monthly report.

The Treasurer invited Councilor Roderick to spend time with him as Councilor Lambert has. Councilor Roderick believed the information should be for the entire Council. Treasurer DiMattia noted it was not a good time to make money, trying to get the best rates; security of the money is the number one issue. Councilor Arruda also stated the monthly report would be a great tool and should be open and transparent so everyone can see the financial status. Councilor Durfee requested the report be carried over to the next meeting.

Councilor Leonard suggests investment reports on quarterly basis would be sufficient. Treasurer DiMattia to prepare report for Council perhaps on quarterly basis.

**Approval for Tiverton Education Foundation to Hold a Memorial Day Parade on Monday, May 31, 2010**

Linda Larson, Tiverton Education Foundation, appeared before the Council requesting approval to hold a Memorial Day Parade on Monday, May 31, 2010. Looking for Council approval before proceeding,

already talked to Chief Blakey and the Town Clerk regarding a permit. The route would probably be from the Ponta up to Main Road and down to the cemetery or Lil Bear. The purpose of the parade is to build community relationships, support student enrichment programs and honor Service men and women. The High School and Middle School Marching Bands would play pending approval. Invited Councilors to march.

Councilor Durfee made a motion, seconded by Councilor Arruda to approve the request for a Memorial Day Parade on Monday, May 31, 2010. Motion passed unanimously.

#### **APPOINTMENTS & RESIGNATIONS:**

##### **Planning Board Resignation – Patricia Sylvester**

Councilor Durfee made a motion to accept, with great regret, the resignation of Patricia Sylvester from the Planning Board. Seconded by Councilor Roderick the motion passed unanimously.

##### **Tree Warden Appointment 2010 -John D. Manchester**

Councilor Durfee made a motion, seconded by Councilor Costa to re-appoint John D. Manchester as Tree Warden for a one year term ending January 31, 2011. Motion passed unanimously.

##### **Conservation Commission (3) Vacancies to expire 6/30/2013**

###### **a. Natalie M. Cote, 146 Leger Lane**

###### **b. Brenden James DePrest, 20 West Avenue**

Ms. Natalie Cote and Brenden DePrest spoke briefly before Council relative to their interests on the committee.

Councilor Durfee made a motion, seconded by Councilor Roderick to appoint Natalie M. Cote to the Conservation Commission for a three-year term to expire 6/30/2013. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Roderick to appoint Brenden J. DePrest to the Conservation Commission for a three-year term to expire 6/30/2013. Motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

#### **BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:**

##### **Crystal Neronha, 39 Sawdy Pond Avenue**

###### **a. Request Approval of Peddler's License – Subject to Meeting All Legal Requirements**

###### **b. Request Approval of Hawker's License – Subject to Meeting All Legal Requirements**

Ms. Neronha requested both licenses because of using a mobile trailer, which will be moved every day.

Councilor Costa made a motion, seconded by Councilor Durfee to approve the request for a Peddler's and Hawker's License, subject to meeting all legal requirements, to Crystal Neronha.

#### **PUBLIC HEARINGS- ADVERTISED:**

##### **Landfill/Recycling Committee – Proposed Adoption of Amendment to Chapter 66 Authorizing the Council to Adopt Regulations for a "Pay As You Throw" Program Continued From December 14, 2009**

Council President Bollin re-opened the Public Hearing for "Pay As You Throw" (PAYT) continued from December 14, 2009. DPW Director Steve Berlucchi and Landfill Committee member Steve Rys appeared before the Council on this continued item. Members of the public expressed opinions regarding the collection of recyclables before the trash is picked up and the recycling bins blowing

around the streets. Several residents recommended the “No Bin/No Barrel” (NB/NB) be dropped upon adoption of regulations for PAYT. Residents also suggested trash be picked up first, only Town residents be allowed to purchase bags, provisions for low cost or no cost bags for hardship be included, allowed to opt out for credit for taxes and that all funds generated by the program be placed in a restricted account. One resident also requested all revenues and expenditures for this program be itemized in the budget.

Council President Bollin asked for Council comments but did not close the Public Hearing. Councilor Durfee mentioned in December when this first came before Council the vote taken authorized the statue. The next step is for the Solicitor to draft regulations and options. Suggests the landfill operations be funded in a restricted account as well as the landfill closure. One suggested option would be to free up roughly \$300,000 from budget by collection of bag fees to offset funds Town will not receive from state and help need for programs.

Councilor Leonard reiterated there was a lot of work done for this proposal, the estimates are conservative, and the money should go only into a restricted account and for the acquisition and construction of a transfer station. Councilor Roderick also agreed all funds from the program should be restricted to Landfill account.

Councilor Lambert noted the committee was concerned with predicting the cost and still recommending having \$168,000 appropriated at the Financial Town Meeting (FTM). President Bollin was concerned about low income and the unemployed. Wanted the first bag free then charge for additional bags. This is a starter program, amendments can be made. Budget Committee Chair, Jeff Caron, suggested if Councilor Durfee’s proposal was not done properly, by taking the landfill out of the docket, this effectively circumvents the tax cap. Important the taxpayer is protected and this stays in the budget. Councilor Durfee responded this has no relation to the cap; it’s to provide the taxpayer’s a break. Councilor Arruda noted this is a good program that can be amended. Director Berlucchi noted studies have shown a family of four generates one and a half bags of trash per week.

Councilor Durfee suggested the Council adopt the ordinance in two steps. Made a motion to adopt the ordinance before the Council authorizing the program be instituted. Suggested developing more data would help in drafting regulations. Councilor Lambert amended the motion to include stickers and containers with stickers affixed. Councilor Leonard wanted to put in a restricted account.

Mike LaPorte, from Waste Zero, the bag company noted the stickers were being pirated in other communities. A voucher program can be set up for free or low cost bags. Will work with the Town and what is decided.

President Bollin closed the Public Hearing.

Solicitor Teitz suggested rewording the section by adding “100% of said fee, less administrative expenses, shall go into a restricted account of landfill closure fund.

Councilor Durfee amended the motion to adopt the ordinance with the suggested wording from the Solicitor. Seconded by Councilor Leonard the motion passed unanimously.

Councilor Durfee noted the Solicitor needed guidelines to draft the regulations. Council wanted to provide for a free bag option, go out to bid, implemented in the course of pickup, sold in stores designated by the Council, tracking mechanism, receive quarterly reports, renew after six months.

## **FINANCIAL BUSINESS:**

### **Philip DiMattia, Town Treasurer**

#### **Presentation on Annual Financial Report by Auditing Firm Parmelee, Poirier & Associates, LLP**

The Town Treasurer and the auditor Paul Dansereau reported to the Council on the annual audit. The Treasurer made delivery of the report to the Auditor General, costs the town \$35,000 which encompassed the Town and the school accounts. The reports will be put on the web after acceptance. Paul Dansereau thanked the Council for allowing him to perform this service, the Treasurer and his staff for their assistance and Doug Fiore from the school dept. The Treasurer delivered the reports to the Town Clerk on Wednesday morning January 21<sup>st</sup>. Mr. Dansereau proceeded to summarize areas of the report. Page 13 showed the Town assets and the net assets done in a full accrual basis. More beneficial to the Town is the report on page 15/16 showing the reserves, general fund, school and restricted fund and capitol funds. The Town had an increase in surplus to \$675,671. The school had a deficit of \$306,000, left \$229,000 in the unreserved fund going forward into this year's budget. The town received \$363,000 in Federal SFSF stabilization funds; the school should receive additional funds from grants to offset cost.

Net pension obligations were in good shape at \$194,000. The Town is maintaining annual contributions. Mr. Dansereau noted the Federal compliance audit for expenditures over \$500,000 showed no significant deficiencies. However, past practices for transferring funds, especially at end of the fiscal year, were made as line item transfers. Should move budget dollars, not actual money. Councilor Bollin noted on page 103 the comments about internal controls. The auditor reports significant deficiencies with internal controls on financial reporting, the solution to the problem lies with the Treasurer. Treasurer DiMattia commented on his implementation of the Phoenix system and the need to meet with the auditor before the actual audit. Councilor Durfee questioned whether the previous treasurer initiated the Phoenix system. Mr. Dansereau noted an upgrade was done in July 09. Also noted in the comments the school basically didn't have a balance sheet, had only tracked expenditures. Uniform Charter accounts, (by the State), now accountable for double entry. Schools are assigned account numbers by the State to compare costs.

Councilor Roderick wanted a report regarding procedures being set to address the deficiencies including corrective action. The Treasurer stated he could have a report in two months. Councilors Durfee and Bollin concern with financial statements being misstated that would be serious when dealing with bond issues, etc.

Auditor Paul Dansereau stated he couldn't be overseer of backup and how information is presented has consulted with Treasurer suggesting procedures but cannot be management.

## **TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

1. The First Citizens Police Academy will be meeting one night per week for 10-12 weeks, will cover a variety of police operations and duties. Applications available.
2. Abatements total \$91,025.
3. DPW applied for and received a \$1,000 grant for the purchase of a back buddy.

## **COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

### **TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:**

#### **Draft Legislation – Clarification of FTM Authority to Override Budget Cap**

State statute not as clear as could be relative to exceeding cap authority by some towns with FTM, gave rise to a lawsuit, Danielle Coulter v. David Roberts, Tax Assessor for Town. Council had handled as litigation in Executive Session and now directed possible draft legislation should be in the public sector for comment prior to final approval for proposed amendment. Town would need to present the General

Assembly with a proposal to clarify language as an amendment to the Paiva-Weed legislation. Councilor Durfee noted this was addressed in Executive Session, the consensus was to submit legislation.

Councilors discussed adopting a policy so people would know steps and procedures on how the excess levy is approved. Asked the Solicitor to draft by 1) requiring the Budget Committee to alert the Council and Administrator to address when approval from State would be required for taxes in excess of cap, 2) require Council excess levy be approved by the super majority, 3) if approved by the State, would have to be approved by the electorate at the FTM and 4) state the Town Council is the governing body of the Town. Councilor Durfee requested the Solicitor put this in a policy and come back to the Council.

Councilor Lambert agreed this proposed legislation should not go to the General Assembly as presented. People are concerned about the process and procedure for dealing with an excess levy. Agreed with Councilor Durfee in looking for language for a policy statement or possible ordinance, not wanting to open doors on Paiva-Weed legislation. Solicitor Teitz asked for a motion if that is Council's position, to table the draft legislation before proceeding.

Councilor Roderick made a motion, seconded by Councilor Lambert to table the proposed draft legislation on clarification of FTM authority to override budget cap. Motion passed unanimously.

Solicitor Teitz can have a proposed policy available for the first meeting in March. President Bollin believed an ordinance was the best way to go to make it a permanent part of the record. Councilor Durfee wanted policy made available prior to meeting. Solicitor agreed would be available ten days prior. Solicitor Teitz asked for clarification, the consensus was this should be a policy. President Bollin noted this year it could be a policy and maybe next year make it as an ordinance.

Councilor Durfee made a motion, seconded by Councilor Arruda to release and unseal the minutes of Executive Session relating to any settlement discussion of the Coulter case. The motion failed on a vote of 3-3 with one abstention, Councilors Arruda, Durfee and Bollin in favor of unsealing, Councilors Lambert, Roderick and Leonard opposed, and Councilor Costa abstained.

Rob Coulter applauded the Council for trying to make a policy to comport with the spirit of the law, positively moving forward. Mr. Coulter also referred a December 7<sup>th</sup> letter sent by Attorney Teitz as a possible settlement agreement that was still considered to be confidential.

Councilor Durfee was concerned about one-sided press releases that obviously misstate the facts, deliberately misleading to the public. After hearing Mr. Coulter's statement regarding the litigation and press release, Councilor Costa suggesting a revote to unseal records, he would now be in favor of doing.

### **Report on Town of Westerly Resolution Regarding Unfunded Mandates**

Councilor Durfee made a motion, seconded by Councilor Roderick to continue this matter to the next meeting. Motion passed unanimously.

### **CLOSED EXECUTIVE SESSION -continued**

#### **1. Town Solicitor - Litigation – 42-46-5(a) (2)**

#### **2. Town Administrator – 42-46-5(a)(2) - Collective Bargaining-Teamsters, IAFF& IBPO**

#### **3. Town Administrator – 42-46-5(a)(6) - Prospective Business or Industry**

Councilor Leonard made a motion, seconded by Councilor Roderick to continue the Executive Session pursuant to 42-46-5(a)(2)-Collective Bargaining-Teamsters, IAFF & IBPO. Motion passed unanimously.

The Council entered into Executive Session at approximately 10:15 p.m.

The Council returned to Open Session at approximately 10:30 p.m.

**OPEN SESSION:**

Council President Bollin announced no formal action had been taken in Executive Session.

Councilor Durfee motioned to seal the minutes of Executive Session, seconded by Councilor Roderick. Motion passed unanimously.

**ADJOURNMENT:**

Councilor Durfee motioned to adjourn, seconded by Councilor Roderick. Motion passed unanimously.

Council adjourned at approximately 10: 35 p.m.

A True Copy.

ATTEST: \_\_\_\_\_ Nancy L. Mello, Town Clerk